Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of	)	
	)	
Presubscribed Interexchange Carrier Charges	)	CC Docket No. 02-53
	)	
	)	CCB/CPD File No. 01-12
	)	
	)	RM-10131

COMMENTS OF SBC COMMUNICATIONS INC.

Davida M. Grant
Jeffry A. Brueggeman
Gary L. Phillips
Paul K. Mancini

SBC COMMUNICATIONS, INC
1401 Eye Street, NW
Suite 400
Washington, D.C. 20005
(202) 326-8903- Phone
(202) 408-8763- Facsimile

Its Attorneys

June 14, 2002

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Presubscribed Interexchange Carrier Charges	)	CC Docket No. 02-53
	)	
	)	CCB/CPD File No. 01-12
	)	
	)	RM-10131

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC") hereby files these comments in response to the Notice of Proposed Rulemaking[1] ("Notice") issued in the above-captioned docket. SBC supports retention of the existing $5.00 safe harbor.

I. BACKGROUND AND SUMMARY

In 1984, the Commission, as part of its access charge proceedings, correctly determined that it was reasonable and appropriate for local exchange carriers ("LECs") to recover costs associated with changing a customer's interexchange carrier ("IXC").[2] At that time, the Commission determined that cost recovery was warranted but concluded that it would be difficult to establish the exact costs borne by LECs in effectuating prescribed interexchange carrier ("PIC") changes.[3] Accordingly, the Commission established a $5.00 safe harbor, finding

---

[1] Presubscribed Interexchange Carrier Charges, Order and Notice of Proposed Rulemaking, CC Docket No. 02-53, CCB/CPD File No. 01-12 (rel March 20, 2002) ("Notice").

[2] Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, Memorandum Opinion and Order, 55 Rad. Reg. 2d (P&F) 1422, App. B at 13-5 (1984).

[3] *Id.*

that \$5.00 would reasonably permit carriers to recover their costs and not pose a barrier to competitive entry or consumer decisions to switch carriers.[4] The \$5.00 safe harbor has been in effect since 1984 during which time competition in the long distance market has flourished.

In May 2001, CompTel petitioned the Commission to initiate a rulemaking to reexamine and revise the \$5.00 safe harbor. CompTel argued that circumstances have changed and carriers should now be required to demonstrate the exact costs associated with PIC changes. Further, CompTel argued – without any evidence or support – that PIC-change costs have decreased substantially since 1987, and that a new inquiry into what constitutes a reasonable PIC-change charge is warranted. The Commission granted CompTel's request and initiated this rulemaking to review the reasonableness of the PIC-change charge given existing regulatory and market conditions.

This proceeding is completely unnecessary and a waste of the Commission's and carriers' resources. Competition in the interstate long-distance market is more intense than ever, particularly as SBC and other ILECs have entered the market, and prices have steadily declined. There is absolutely no evidence that customers are hesitant to switch IXCs because of the PIC-change charge. Indeed the proliferation of PIC changes belies any claim that the PIC-change charge is unreasonable.

As SBC demonstrates in these comments, retention of the existing \$5.00 safe harbor is appropriate. First, it permits carriers to adequately recoup costs, particularly new costs, associated with PIC changes. While certain PIC-change costs have decreased since 1987, others have increased, and additional services have been added. In particular, slamming activity of

---

[4] Annual 1985 Access Tariff Filings, Memorandum Opinion and Order, 2 FCC Rcd 1416, 1446 (1987) ("1987 Access Tariff Order").

IXCs has generated additional costs, as have preferred carrier freezes. These costs are inextricably tied to PIC changes and recovery should be allowed through the PIC-change charge.

It is ironic that IXCs would seek to deny LECs recovery for costs that the IXCs are responsible for creating. Moreover, IXC arguments to limit cost recovery for PIC changes and improperly deny cost recovery for slamming and PIC freezes are disingenuous, given that some IXCs have incented customers via their bill page messages to contact their local provider to obtain freeze protection. For example, Sprint recently enticed customers in Michigan and Texas to place a PIC freeze on their account to receive a $5.00 credit on their next bill. IXCs want LECs to support these promotions, but want to deny them the requisite cost recovery for their marketing programs.

Second, the existing $5.00 safe harbor strikes a reasonable balance. It limits the price of PIC-change charges without requiring the Commission to perform the difficult and burdensome task of attempting to identify all of the costs related to the PIC change. If anything, the justification for the $5.00 safe harbor is even stronger now than in 1987. Over time, inflation has reduced the value of $5.00. At the same time, the costs related to PIC changes would be even more difficult to calculate now than in 1987 because of all the additional customer support and processing required for slamming and PIC freezes.

Third, retention of the existing safe harbor is in the public interest. Lower PIC-change charges could encourage more slamming activity on the part of IXCs. Moreover, if LEC cost recovery is limited to direct costs of PIC changes, then LECs could be forced to discontinue or curtail PIC freezes and other consumer-related activity, which the Commission has already recognized as beneficial to consumers.

II. PIC-CHANGE CHARGES SHOULD RECOVER ALL COSTS ASSOCIATED WITH EFFECTING THE CARRIER CHANGE, INCLUDING COSTS ASSOCIATED WITH SLAMMING AND ADMINISTRATION OF PREFERRED CARRIER FREEZES.

The Commission seeks comment on the types of costs that should be recovered through the PIC-change charge. CompTel, in its Petition for Rulemaking, requested that the FCC permit cost recovery for the costs that are incurred to receive, validate and submit PIC changes, but exclude customer service and other costs, which clearly are directly associated with PIC changes. As detailed herein, the Commission must consider all costs related to PIC changes in determining a reasonable PIC-change charge, including preferred carrier freeze administration and slamming costs associated with interstate toll services.[5]

A. All Costs Associated With The Manual Or Mechanized Processing Of PIC Changes Should Be Factored Into The PIC-Change Charge.

SBC processes PIC-change requests manually and mechanically. SBC employs manual processing when a customer contacts SBC directly to request a PIC change. Contrary to CompTel's assertions, the majority of the PIC-change requests received by SBC – an average of 55% – are processed manually.[6] Thus, SBC's costs have not been reduced substantially, as CompTel alleges. SBC agrees that manual processing is more expensive than mechanized

---

[5] The Commission also asks whether LECs should be permitted to charge a PIC-change charge for interstate and intrastate PIC changes. The answer is yes. A PIC-change cost analysis should be based on the total estimated costs incurred for carrier changes divided by the total number of estimated changes. In most cases, there are no material differences in processing an interLATA versus an intraLATA PIC. Furthermore, this method ensures that LECs recover the actual costs incurred, while recognizing any cost savings that might be gained by having more than one PIC changed in a transaction. The other methods proposed by the Commission would unnecessarily complicate matters, as there is no sensible method of determining the cost impact of each subsequent change request where more than one change is requested in the same transaction.

[6] SBC could not determine the number of PIC changes processed in California and Nevada in time for these comments. This percentage includes business and consumer requests for 11 states. This percentage does not include LPIC change requests or new connects.

processes, although mechanized processing also involves significant expenses, because it requires human intervention, which translates into labor costs.

To effectuate manual PIC-change requests, excluding requests involving preferred carrier freezes or slamming allegations, SBC personnel must perform the following functions: (1) communicate with the subscriber regarding the request,[7] (2) complete and submit the service order,[8] (3) update the change in all necessary systems,[9] and (4) for some SBC states, prepare and send notification to the customer of the change. In SBC's experience, the first step in this process has proven to be the most time-consuming, and contributes heavily to the service representative time-per call.[10] Once the service order is submitted, the carrier change is completed via SBC's mechanized process. Additional ongoing expenses include editing and updating scripts regarding the PIC-change process and maintaining service order and other computer systems.

SBC employs mechanized processing, i.e. no manual intervention, of PIC-change requests where an IXC submits a carrier change request directly into SBC's automated system.[11] Generally, the costs for such PIC changes are lower than manually processed PIC changes, but contrary to CompTel's assertions, the costs associated with mechanized processing are significant. Importantly, SBC's mechanized process, Customer Account Record Exchange

---

[7] This includes verifying that it is the appropriate account, verifying the IXC choice with the customer, providing additional IXC choices, if requested, advising the customer of the charges and in some cases providing support on slamming allegations and freeze programs.

[8] This includes accessing the appropriate service order form, inputting the carrier change, and inputting due dates.

[9] In SBC, there are on average 11 applications per region that process and update PIC changes.

[10] This is particularly so when a slam is alleged or a freeze is requested or removed.

[11] This includes instances where an IXC submits a request for bulk transfer of a subscriber base, e.g. where an IXC acquires a subscriber base from another IXC.

("CARE"), was designed to allow for faster processing of PIC-change requests, not to reduce costs. The ongoing costs of maintaining and operating CARE are a significant expense. There are multiple databases dedicated solely to maintaining, verifying and tracking PIC-change requests in the CARE System, costs for which must be recovered.

Further, the overall costs for processing PIC changes should include not only costs directly incremental to provisioning a PIC change, but also a reasonable percentage of a carrier's total company common costs. Categories of common costs include legal, executive, marketing and additional overhead costs. These costs cannot be causally connected to any particular service or subset of service. Rather, they are directly attributable to all services considered in total.[12] PIC-change services, like every other service, must contribute something toward coverage of the common costs. Otherwise, other services have to make up the difference to ensure that revenues at least meet total costs. A carrier whose service revenues cover only its direct costs, and not common costs, would not be financially viable.

B. Preferred Carrier Freezes Associated With Interstate Toll Accounts Are Inextricably Tied To PIC Changes, Thus Costs For These Freezes Should Be Recovered Through The PIC-Change Charge.

In addition to the foregoing, costs associated with the placement of or removal of PIC freezes should be recovered via the PIC-change charge. Preferred carrier freezes are inextricably tied to the carrier change. Indeed, the sole purpose of a preferred carrier freeze is to safeguard a subscriber's carrier selection. This is evidenced by the fact that many freeze requests received by SBC are made in conjunction with a carrier change request. The Commission has previously held that preferred carrier freezes are directly tied to carrier changes and verifications, and LECs

[12] Stated differently, common costs are associated with a firm's entire operations and can only be avoided if the firm ceased offering all services.

administering freeze programs should be able to recover costs associated with freezes through the carrier change charge.[13] This reasoning is equally correct today. If LECs are precluded from recovering these costs, LECs likely would reconsider the feasibility of offering preferred carrier freezes for interstate services. Given the continued proliferation of slamming, as evidenced by the FCC Form 478 filings, the Commission should act to ensure the continued viability of these programs where LECs choose to administer them, as they are effective in protecting consumers from unauthorized changes.

As for costs, each preferred carrier freeze request to add or remove a freeze is processed manually. SBC's costs for implementing freezes include labor (i.e. communication with the subscriber regarding the freeze request, and completion and submission of the freeze request), and verification of the freeze request.[14] Section 64.1190(d)(2) of the Commission's rules requires LECs to verify every request to add a preferred carrier freeze.[15] SBC verifies adding a PIC-freeze request in two ways: (1) a letter of agency ("LOA"), or (2) third-party verification ("TPV"). With respect to LOA verification, SBC personnel, upon receipt of the LOA, review the LOA to ensure that the customer has provided the requisite information required under Section 64.1190(d)(3) of the Commission's rules.[16] Once this verification is complete, SBC personnel submit the request to effect freeze placement.

With respect to TPV, SBC uses both live and automated TPV. In both instances, SBC prepares the script to be used by the live or automated third-party verifier to ensure compliance

---

[13] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-129, ¶¶121-129 (1998) ("Slamming Order").

[14] The foregoing costs mirror the labor costs required to effect a manual PIC change.

[15] 47 C.F.R. sec. 64.1190(d)(2).

with Section 64.1190(d)(2)(iii) of the Commission's rules. Once SBC personnel take the order from the subscriber, SBC personnel transfer the call to a TPV vendor or SBC's automated TPV system. In the latter case, the system requires the service representative to answer several questions regarding the customer account prior to dropping off of the call. Once the TPV is complete, SBC personnel review the TPV to ensure that the subscriber has successfully completed the verification process. If successful, SBC personnel submit the freeze request to effect the freeze. If the TPV was not successful, SBC personnel attempt to re-contact the subscriber via telephone or prepare and send correspondence to the subscriber informing him/her that the TPV was not successful and that the subscriber must contact SBC to place a freeze on their account. Each of the foregoing functions has an associated cost, which should be recouped via the PIC-change charge.

Additionally, SBC incurs costs in removing preferred carrier freezes from interstate toll accounts. SBC personnel must review written requests to ensure compliance with Section 64.1190(e)(1) of the Commission's rules, and enter the request into the service order system. For oral requests, such as three-way calls or direct calls from consumers, SBC personnel must verify the subscriber's identity and intent to lift the freeze, access the relevant account, and enter the request into the service order system. These costs are part of the PIC-change process and therefore should be factored into the PIC-change charge.

---

[16] 47 C.F.R. sec. 64.1190(d)(3).

C. Costs to process slamming allegations tied to interstate toll accounts should be recovered through the PIC-change charge.

Costs borne by executing LECs to process slamming allegations involving interstate toll accounts should be recovered through the PIC-change charge. Every slamming allegation regarding interstate toll service is associated with a PIC change. When a customer contacts SBC and alleges a slam regarding his/her interstate toll account, SBC has to undertake procedures to notify the authorized and allegedly unauthorized IXC of the slamming allegation. Further, SBC must return the customer to the preferred IXC,[17] notify the customer of his/her right to file a complaint and where to file it, remove the disputed charges from the customer's account, bill the alleged unauthorized provider that submitted the change request,[18] and track the slamming allegation for purposes of the Form 478 report. When a slamming complaint is filed, SBC must respond to inquiries from governmental agencies, which requires SBC to investigate the slam. These carrier obligations are a direct result of correcting an unauthorized PIC change and thus cannot be divorced from PIC-change costs.

III. THE COMMISSION SHOULD RETAIN THE EXISTING $5.00 SAFE HARBOR FOR PIC-CHANGE CHARGES.

The Commission in this and other contexts has concluded that safe harbors or benchmarks are appropriate in instances where it is difficult to identify or quantify costs, or where there is persistent concern over the reasonableness of rates.[19] While the tasks or

---

[17] In some instances, a subscriber has been slammed multiple times. This requires a more detailed discussion with the customer to determine the identity of the desired carrier. Subscribers are often confused when resellers are involved.

[18] Where an IXC slams a customer, the IXC is required to pay for two PIC changes. This likely is a major impetus for IXCs challenging the reasonableness of the PIC-change charge.

[19] *See 1987 Access Tariff Order*, 2 FCC Rcd at 1445-1446; *see, e.g.*, Access *Charge Reform*, Seventh Report and Order, 16 FCC Rcd 9923 9940 (2001) ("We conclude that the benchmark we adopt will

obligations associated with PIC-change charges are identifiable, they remain difficult to quantify. As described in greater detail above, SBC's PIC-change costs will vary depending on whether the change is processed manually or mechanically, whether the change emanates from a slamming allegation, or whether a preferred carrier freeze is on the account. Given these varying factors, it is difficult to determine what the exact charge should be for a PIC-change charge. A safe harbor, however, provides a bright line rule for ensuring that PIC-change rates are just and reasonable, thereby minimizing investigative and administrative burdens for carriers and the Commission alike, and eliminating onerous cost study requirements for LECs.

In the Notice, the Commission seeks comment on what the safe harbor should be. The existing $5.00 safe harbor should be retained. First, the marketplace shows that consumers do not find the $5.00 charge unreasonable. The IXCs argue that the $5.00 charge is impeding competition by negatively impacting consumers' decisions to switch carriers. This claim is belied by the fact that PIC changes have increased steadily since 1984. For example, in the Ameritech region, SBC has experienced an increase in excess of 1 million PIC and intraLATA PIC-change requests in the past five years alone. The reality is carrier switching is tied primarily to ongoing service charges. Small, one-time service fees, such as the PIC-change charge, are highly unlikely to influence a customer's decision to change carriers.

Second, the $5.00 safe harbor is a reasonable benchmark. SBC's costs per PIC change could vary significantly, particularly where additional customer support is required for slamming and PIC freezes. Thus, it would be difficult to develop a cost study covering each potential scenario. The safe harbor strikes a reasonable balance by limiting the price of the PIC-change charge, while eliminating carriers' burdens in developing cost studies and the Commission's

---

address persistent concern over the reasonableness of CLEC access charges and will provide critical stability for both the long distance and exchange access markets.").

burden of determining all the costs related to PIC changes. The existing $5.00 safe harbor certainly recognizes efficiencies gained since 1984. The value of $5.00 has decreased substantially since 1984. Indeed, the value of five dollars in 1984 would be worth only $2.90 today. In order to remain within the $5.00 safe harbor, SBC has had to streamline its PIC-change processes, particularly given increasing costs due to higher volumes, new PIC-change processes and services, and additional regulatory requirements.

Further, carriers not subject to the FCC's tariffing requirements charge $5.00 for PIC-change charges. These carriers certainly have the ability to charge higher prices for PIC-change services. Their decision to charge $5.00 demonstrates that $5.00 is reasonable and likely cost-based.

Third, the existing safe harbor furthers the public interest. As the carrier-filed FCC Forms 478 show, slamming activity continues to remain high. A reduction in the $5.00 safe harbor could actually result in increased slamming activity, since the associated PIC-change fees would be lower. Further, if LECs are precluded from recovering PIC-freeze costs, they may discontinue PIC freezes and other consumer-related activity, to the detriment of consumers.

IV. CONCLUSION

For the foregoing reasons, SBC requests that the Commission retain the existing $5.00 safe harbor. As detailed above, the safe harbor strikes the right balance. It effectively operates as a price cap and drives efficiencies while avoiding difficult issues associated with fully identifying costs of PIC changes.

Respectfully Submitted,

/s/ Davida Grant

Davida Grant
Jeffry Brueggeman
Gary L. Phillips
Paul K. Mancini

SBC Communications Inc.
1401 I Street NW 4th Floor
Washington, D.C. 20005
Phone: 202-326-8903
Facsimile: 202-408-8763

Its Attorneys

June 14, 2002